



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

Certificate of Need Follow-Up Reports

These procedures outline a streamlined approach of accountability for follow-up reports, to include copies of valid construction contracts, monthly and quarterly progress reports, extension requests and final completion reports. ***The Bureau of Health Facilities and Services Development will no longer take responsibility for sending progress report reminder letters or extension request reminder letters.*** The facility will be responsible for the timely submission of the reports. This change will take place in conjunction with the effective date of the 2008-2009 State (South Carolina) Health Plan, which was September 12, 2008.

In the past, progress reports have been requested to be sent to the Department until the issuance of a construction contract or purchase order, a lease or service agreement, or a license, as appropriate. Regulation 61-15 Section 601 requires this to document progress with the approved timetable. We are now additionally requesting quarterly progress reports to be submitted until the project has been fully implemented (that is, when a final completion report is due).

It is incumbent upon the facility to ensure compliance with these requirements, and to initiate communication with the Department if questions or issues arise. The progress reports addressed in this document are applicable for all projects which are issued a Certificate of Need without exception.

Exemption and Non Applicability Determinations are addressed in Section 11 of this document. *The Bureau of Health Facilities and Services Development will no longer take responsibility for sending separate reminder letters to submit evidence of implementation and of the pending expiration of these determinations.*

1.0 Facility Contact Information

In order to better serve your facility, the Certificate of Need (CON) program needs the following information regarding the person responsible for reporting CON issues for your facility: Name of contact person; title of contact person; mailing address; telephone number; and e-mail address. Please provide this information in your first monthly progress report.

2.0 Certificate of Need Expiration

The CON is valid for the period specified on the face of the CON Certificate, either six months or one year. The certified CON issuance letter accompanying the certificate also includes this information.

3.0 Progress Reports

Progress reports are required to be submitted in order to document compliance with the timetable submitted by the applicant (R.61-15, Section 601.2). Failure to meet the timetable may result in enforcement action, up to and including revocation of the CON, unless the Department determines that circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay.

In addition, R.61-15 Section 701 addresses penalties as set forth in the SC Codes of Laws. Section 44-7-320 from the SC Code of Laws states the Department may deny, suspend, or revoke licenses or assess a monetary penalty for violating a provision of this article or departmental regulations. The penalty imposed must be not less than one hundred nor more than five thousand dollars for each violation and each day's violation is considered a subsequent offense. Section 44-7-340 states: "Any person or facility violating any of the provisions of this article or a regulation under this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars for the first offense and not more

than five thousand dollars for a subsequent offense. Each day's violation after a first conviction constitutes a subsequent offense."

4.0 Evidence of Implementation for Projects Involving Construction: Valid Construction Contract

Unless an extension is requested, the CON will be voided and/or revoked, and a complete new application for review under Certificate of Need will be required for a project if a valid construction contract is not properly negotiated prior to the CON expiration date (See R.61-15 Section 601.3).

For CON purposes, a valid construction contract *does not include* contracts or agreements for infrastructure improvements, site preparation, utilities, or the structure's foundation.

For CON purposes, a valid construction contract (such as American Institute of Architects documents A101 or A111) is considered an executed contract for the *structure itself* and includes:

- a. Project name and description consistent with the information on the CON;
- b. A definite price or guaranteed maximum price listed for the work;
- c. A specific beginning and ending date for the project; and
- d. Names and signatures of both parties, to include the date(s) the contract was signed.

When fully executed, a copy of the valid construction contract must be forwarded to the contact listed at the end of this document. It is optional to send a copy of the building permit for actual building construction.

5.0 Progress Reports Prior to and Following the Issuance of a Valid Construction Contract

5.1 Monthly Progress Reports to be Submitted Prior to the Issuance of a Valid Construction Contract

As required by R.61-15, Section 607, monthly progress reports must be submitted beginning 30 days after receipt of the Certificate of Need.

The applicant shall report on, if applicable:

- a. Costs incurred on the project;
- b. Construction activity;
- c. Program or service activity; and
- d. Any deviations from the submitted application with supporting documentation.

When fully executed, a copy of the valid construction contract must be forwarded to the contact listed at the end of this document. It is optional to send a copy of the building permit for actual building construction.

5.2 Quarterly Progress Reports to be Submitted Following the Issuance of a Valid Construction Contract

Once the Department has verified the existence of a valid construction contract, **quarterly** progress reports must be submitted beginning 30 days after receipt of this verification.

The applicant shall report on, if applicable:

- a. Costs incurred on the project;
- b. Construction activity;
- c. Program or service activity; and
- d. Any deviations from the submitted application with supporting documentation.

The Bureau of Health Facilities and Services Development may request submission of progress reports more frequently than quarterly if the circumstances warrant.

6.0 Evidence of Implementation for Projects Involving the Acquisition of Equipment

A purchase order, lease or service agreement (whichever is applicable) must be executed prior to the expiration date of the CON.

7.0 Progress Reports for Projects Involving the Acquisition of Equipment

As required by R.61-15, Section 607, monthly progress reports must be submitted beginning 30 days after receipt of the Certificate of Need.

7.1 Monthly Progress Reports to be Submitted Prior to the Issuance of a Purchase Order, Lease, or Service Agreement

The applicant shall report on, if applicable:

- a. Costs incurred on the project;
- b. Construction activity;
- c. Program or service activity; and
- d. Any deviations from the submitted application with supporting documentation.

7.2 Quarterly Progress Reports to be Submitted Following the Issuance of a Purchase Order, Lease, or Service Agreement

When fully executed, a copy of the purchase order or agreement must be forwarded to the contact indicated at the end of this document. Upon notification from the Department, subsequent progress reports must be submitted **quarterly** until time for the final completion report. The Bureau of Health Facilities and Services Development may request submission of progress reports more frequently than quarterly if the circumstances warrant.

8.0 Evidence of Implementation for Projects that Only Require Licensure by the Division of Health Licensing

For projects which only require licensure by the Division of Health Licensing and have no construction or equipment components, a copy of the applicable license or a copy of the cover letter sent with the license should be submitted to the Department to demonstrate implementation. A final completion report should be submitted within one month of licensure for these projects unless the Department provides written approval.

9.0 Extension Requests

Sections 601 and 602 of R.61-15 outline extension request procedures. The Department may grant up to two extensions of up to six months each provided substantial progress and other appropriate documentation described in these sections are demonstrated. For Department extensions, the applicant must submit a written request at least thirty (30) days prior to the expiration date of the CON. However, further extensions must be granted by the DHEC Board and a request must be made **at least three months prior** to the expiration of the CON and contain appropriate justification.

Extension requests must contain at least the following information:

- a. A detailed description of any changes in the configuration, costs, services, or scope of the project;
- b. Detailed documentation of progress including site procurement, architectural drawings, financial arrangements, construction activity, securing permits, etc., as applicable;
- c. Documented evidence that extenuating circumstances beyond the applicant's control have resulted in the submitted timetable not being met; and
- d. A revised timetable showing the commencement and completion of all remaining components of the project.

If an extension is granted, then progress reports shall be submitted monthly unless otherwise determined by the Department in writing.

10.0 Final Completion Report

After the project has been fully implemented, the applicant shall provide a final completion report that contains, at a minimum, the following required by R. 61-17 Section 607.3:

- a. An audited cost report that shows all expenditures on the approved project;
- b. A list of average charges and costs for the services approved in the application and documented by affidavit, certification, or other proof;
- c. A registered architect's or engineer's signed statement of final construction costs;
- d. An equipment listing and inventory for the project;
- e. A program and/or service narrative describing the final project configuration; and
- f. An explanation of any deviation from the approved application with justification, or a signed statement from the applicant that the project was implemented as outlined in the application.

When the project is nearing completion, please provide in the next quarterly progress report an estimated date that the Department should expect a final completion report.

11.0 Exemption and Non-Applicability Determinations

Exemption and Non-Applicability Determinations are valid for six (6) months only and the expiration date is included in the certified approval letter. Reminders to submit evidence of implementation and of the pending expiration of these determinations will not be sent separately. However, the specific type of documentation necessary to demonstrate implementation and the expiration date will be included in the determination letter. If evidence of implementation or other notification that states when the Department will receive evidence of implementation has not been received by the expiration date, the determination will be voided.

Monthly progress reports are not required for these determinations. However, final completion reports, as outlined in Section 10, are required for projects as indicated in the determination letter.

12.0 Department Contacts

Mailing address:

Bureau of Health Facilities and Services Development
SC Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201-1708

Telephone number: (803) 545-4200

Fax: (803) 545-4579

Contacts for follow-up & progress reports: Kelly Barrett (barretkl@dhec.sc.gov)

Contact for exemption and non-applicability determinations: Sallie Harrell (harrelsc@dhec.sc.gov)



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Memorandum

Date: September 22, 2008

To: Healthcare Facilities

From: Beverly B. Patterson, Director
Bureau of Health Facilities and Services Development

Beverly B. Patterson

Subject: Certification of Need (CON) Program Follow-Up Procedure Changes

The effective date to implement the updated follow-up procedures was September 12, 2008, the effective date of the 2008-2009 State Health Plan. A final document pertaining to the proposed follow-up report changes is attached. It is also available at: <http://www.dhec.sc.gov/health/cofn/>.

Significant changes include:

1. Discontinuance of sending reminder letters. This applies to reminder letters associated with CONs, exemptions and non-applicabilities.
2. Quarterly progress reports will be requested to be submitted for CONs from the point a valid construction contract, purchase order, lease or service agreement is executed until the project has been fully implemented (when a final completion report is due).

Applicable correspondence to your facility will incorporate a reminder of these changes and information required to be included in progress reports, final completion reports, extension requests, etc.

Please do not hesitate to contact us at (803) 545-4200 if you have any questions. You may also e-mail questions to me at patterbb@dhec.sc.gov. We greatly appreciate your cooperation as we attempt to streamline and improve our program.

Attachment